

Attorney's Do. No. 4430-18

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Declaration
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Andrew D. Barofsky & Kenton W. Gregory

Serial No. 08/797,770

Group Art Unit: 3738

Filing Date: February 7, 1997

Examiner: Paul Prebilib

For: METHOD FOR USING TROPOELASTIN AND FOR PRODUCING
TROPOELASTIN BIOMATERIALS

Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION TO OVERCOME A CITED PUBLICATION (37 C.F.R. 1.131)

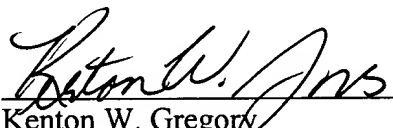
1. The person making this declaration is Kenton W. Gregory, MD., an inventor of the above-referenced patent application ("Application").
2. The undersigned received his Doctorate of Medicine from the University of Southern California, School of Medicine (Los Angeles, CA) in 1980. A copy of the curriculum vitae of the undersigned has been previously provided to the Examiner.
3. The undersigned is familiar with the development, usage, and properties of elastin-based biomaterials.
4. To establish the date of conception of the Application, the following attached evidence is presented:

Exhibit A Relevant descriptions of the invention which were included in a confidential Research Proposal having a date prior to the Effective Date of the Reference.

The evidence as set forth in Exhibit A establishes that the invention in this application was conceived at least by a date earlier than the Effective Date of the Reference, i.e., prior to May 23, 1996.

5. The undersigned is engaged in the active private practice of cardiology at the Providence St. Vincent Medical Center in Portland, Oregon. The undersigned has also been the Director of the Oregon Medical Laser Center of Portland, Oregon since 1991 ("OMLC").
6. OMLC conducts numerous research and development projects at the direction of the undersigned, including a project relating to tropoelastin (see Section 1.3), as outlined in the confidential Research Proposal bearing a date prior to the Effective Date of the Reference, as set forth in Exhibit A. Copies of confidential Reports issued by the OMLC and dated First and Second Quarter of 1997, which covers work conducted at OMLC, including work directed to tropoelastin, in the 4th Quarter of 1996 and the 1st Quarter of 1997, are also attached hereto as Exhibits B & C. These documents provide evidence of the extremely high level of research and development activities which are being conducted and supervised by the undersigned at the OMLC, as well as evidence of work which was conducted at OMLC with respect to tropoelastin (see Section 1.3).
7. Work on the tropoelastin biomaterial was conducted continuously from a date prior to the Effective Date, until the date of filing of the above referenced patent application, and thereafter.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code , and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Kenton W. Gregory

Dated: 3/10/01